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Promotion and protection of the rights of children

Sale of children, child prostitution and child pornography

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, in accordance with Assembly resolution 52/107 of 12 December 1997, the interim report prepared by Ms. Ofelia Calcetas-Santos, Special Rapporteur on the sale of children, child prostitution and child pornography.

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Annex

Report on the sale of children, child prostitution and child pornography prepared by the Special Rapporteur of the Commission on Human Rights in accordance with General Assembly resolution 52/107

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I. Introduction

1. This report is submitted in accordance with General Assembly resolution 52/107 of 12 December 1997, in which the Assembly requested the Secretary-General to provide the Special Rapporteur on the sale of children, child prostitution and child pornography with all necessary assistance to make the full discharge of her mandate possible and to enable her to submit an interim report to the General Assembly at its fifty-third session and a report to the Commission on Human Rights at its fifty-fourth session.

2. The Commission on Human Rights, at its fifty-fourth session, in its resolution 1998/78 of 22 April 1998, welcomed the report of the Special Rapporteur (E/CN.4/1998/101 and Add.1 and 2), requested the Secretary-General to provide the Special Rapporteur with all necessary assistance and urged all relevant parts of the United Nations system to provide the Special Rapporteur with comprehensive reporting to make the full discharge of her mandate possible. The Commission also invited the Special Rapporteur to continue to cooperate closely with other relevant United Nations organs and bodies and to convey her findings to the Commission.

II. Working methods and activities

A. Working methods

3. The mandate of the Special Rapporteur comprises three elements – sale, prostitution, and pornography – which are, *prima facie,* distinct and separate. However, most aspects of the three concerns are inextricably intertwined within the framework of commercial sexual exploitation.

4. The abuse that many children suffer was brought to the attention of the international community on an unprecedented scale during the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm, from 27 to 31 August 1996. In her recent reports to the General Assembly and to the Commission on Human Rights, the Special Rapporteur has focused her mandate on this subject, in particular through a consideration of the roles of the justice system, the media and education and their impact upon the protection of children.

5. The increased international attention being given to the issues of sexual exploitation has heightened awareness of the extent to which children in virtually all areas of the world are being sold or trafficked for that purpose and other purposes. International law concerning the trafficking of human beings generally has been evolving throughout the twentieth century, but the recent widespread reports of women and children being trafficked for prostitution have demonstrated the inadequacy of the current legal regime and response mechanisms which purport to address such atrocities.

6. In order to obtain a more comparative overview of developments relating to the sale and trafficking of children, the Special Rapporteur, in July 1998, sent a circular to all Governments, relevant United Nations bodies and agencies, and intergovernmental and non-governmental organizations, soliciting information to be used in her reports to the General Assembly and the Commission on Human Rights, on the following:

(a) Identified paths within the country through which children are trafficked: the origin of the children and their final destination;

(b) Identified international trafficking routes, which may originate in, pass through, or terminate in the country in question;

(c) Profiles of the children involved and of those involved in the trafficking, such as their nationalities, ages, and information concerning their background circumstances;

(d) The purposes for which children are trafficked – i.e., for sexual exploitation, illegal adoption, for use in labour or sports, for use as organ donors, or any other purpose;

(e) Whether the children are part of a general trafficking path along with commodities, such as drugs or firearms;

(f) The provisions that are made in terms of prevention/extrication/repatriation/rehabilitation of the child victims after trafficking.

7. The Special Rapporteur would like to express her appreciation to those Governments, United Nations bodies and agencies, and non-governmental organizations that have already provided some very useful and comprehensive information, and she urges all other States and intergovernmental organizations to provide her with relevant information which might be used in her forthcoming report to the Commission on Human Rights. The Special Rapporteur would also like to emphasize that the information and materials sent to her up to the time of writing the present report will be discussed in detail in her report to the Commission.

B. Activities

8. Since the fifty-second session of the General Assembly, the Special Rapporteur has carried out one field mission. In November 1997, she visited Mexico (Mexico City (D.F.), Xalapa and Puerto de Veracruz (Veracruz), Cancún (Quintana-Roo), Ciudad Juárez (Chihuahua) and Tijuana (Baja California)). The report of that mission is in document E/CN.4/1998/101/Add.2.

9. In March 1998 the Special Rapporteur attended the International Summit of Sexually Exploited: Out from the Shadows, held in Victoria, B.C., Canada, from 7 to 12 March 1998. The Canadian Summit was a follow-up to the 1996 World Congress against Commercial Sexual Exploitation of Children, and was a unique initiative in that it provided young people who had been victims of commercial sexual exploitation with a forum in which to share their experiences and develop proposals and recommendations for change. The delegates spent the first three days telling their stories and developing a vision for change through artistic expression. Finally they framed their experiences and stories in their own Declaration and Agenda for Action, which was presented and discussed during the final two days with representatives from governmental and non-governmental organizations.

10. The way in which the Congress proceedings evolved demonstrates that the process by which efforts to combat commercial sexual exploitation is structured is as important as the end product. Those who attended the Summit were left in no doubt as to the vital role that is played in the process by the participation of the child victims themselves, and the Special Rapporteur has been encouraged to hear of similar initiatives allowing for child participation being considered in other regions in the world.

11. In April 1998 the Special Rapporteur was invited to address the Commission on Crime Prevention and Criminal Justice at its seventh session, in Vienna. While issues pertaining to juvenile justice are still high on the agenda of criminal justice concerns generally, she used the opportunity to raise her fears that the child victim in the justice system is often extremely vulnerable and at risk of multiple victimization, from the time of reporting abuse up to, and even beyond, the time of sentencing of the offenders.

12. In September 1998, the Special Rapporteur is invited to participate as co-rapporteur of the Conference on Commercial Sexual Exploitation of Children in the Baltic Sea Region, to be held in Tallinn, Estonia. The Conference is intended to be the first step in a process that will raise awareness of the issues, create the conditions for an exchange of experiences, and establish networks of decision makers and experts in the region.

13. In September 1998, the Special Rapporteur will carry out a field visit to the Lao People's Democratic Republic, at the invitation of the Government. She has been invited by the Government of Belgium to carry out a mission to that country, which she intends to do at the earliest possible opportunity. The mission reports will be submitted to the Commission on Human Rights at its fifty-fifth session.

14. In October 1998, the Special Rapporteur will participate in the Second National Conference on Children, Young People and Domestic Violence, which is to be held in Brisbane. The aim of the conference is to strategize about ways to respond effectively to the needs of children and young people affected by domestic violence.

III. International developments relating to the sale of children, child prostitution and child pornography

15. On 17 January 1998, the Global March against Child Labour, a six-month-long intercontinental march, took off in Manila, Philippines, with over 15,000 people from different parts of the world, calling for an end to the economic exploitation of children. The March covered over 80,000 kilometres through more than 80 countries in Asia, the Americas, Africa and Europe. Those involved held rallies, performed dances and traditional songs to raise public awareness of the issues surrounding child labour, and converged in Geneva in June 1998, at the start of the annual meeting of the ILO to define new standards on extreme forms of child labour. After a week of negotiations, a draft child labour convention was agreed upon, the intention of which is to eliminate the most intolerable forms of child labour which include slavery, the use of a child for prostitution or pornography, and the use of a child in illegal activities such as drug trafficking.

16. In May 1998, Interpol and ECPAT (Global Network to End Child Prostitution, Child Pornography, and the Trafficking of Children for Sexual Purposes) hosted a meeting of experts on child pornography at the Interpol headquarters in Lyon, France. The experts, comprising law policy makers, law enforcers, Internet service providers and non-governmental organizations, considered methods of combating this abuse of children and ways of implementing recommended solutions.

17. The International Federation of Tour Operators (IFTO), at its annual meeting in June 1997, agreed to give full support to the international tourism campaign to end child prostitution. Regional cooperation in the greater Mekong area on the promotion and protection of children's rights was discussed at a joint consultation of government and political authorities and non-governmental organizations, held in Thailand in April 1997, where it was proposed that a new United Nations convention or protocol was needed to protect children from being trafficked across borders. The World Congress on Family Law and the Rights of the Child held its second Congress in San Francisco in June 1997. Several panels discussed extraterritorial laws and laws governing child pornography.

18. Defence for Children International (Australia) held a Global Gathering on Children's Rights in April 1997; child prostitution was one of the issues discussed. A European Centre for Missing and Exploited Children based on the model of the successful Center for Missing and Exploited Children in the United States, was launched in Belgium on 26 June 1997.

Significant regional and country developments

Eastern Europe

19. In Eastern Europe the number of prostitutes is reported to be increasing at an alarming rate. Prostitution has become a way of making money quickly, and the child sex industry is thriving with the increasing arrival of tourists, many from Finland and Sweden. A broad range of nationalities is attracted to peep shows of very young performers, the easy availability of young prostitutes, and the very open soliciting which occurs in the hotels of St. Petersburg and Moscow. UNICEF estimates suggest that some 200,000 children live on the streets of ex-Soviet-bloc countries.

Central America

20. With the recent restrictions and operations against sex tourism in Thailand and other Asian countries, including Sri Lanka, a growing number of "sex tourists" are visiting Central America. Estimates from the non-governmental organization Casa Alianza suggest that over 2,000 children from Guatemala, El Salvador, Honduras, and Nicaragua are regularly sexually exploited in approximately 600 bars and brothels operating in Guatemala's capital. In the same areas, many allegations of "baby trafficking" have been made, whereby babies born to prostitutes have been "bought" from their mothers, often with the complicity of high-level public officials.

Mexico

21. In Mexico, the Special Rapporteur welcomes the creation of the Comisión Nacional para Prevenir, Atender y Erradicar el Fenómeno de la Venta de Niños, la Prostitución Infantil y la Utilización de Niños en la Pornografía. The aims of the National Commission include raising public awareness about commercial sexual exploitation of children, carrying out a full assessment of the problem, and introducing appropriate preventative measures and adequate legislation.

Sweden

22. In May 1998, Sweden took its first step towards outlawing the possession and dissemination of child pornography when its Parliament approved legislation that would amend the Constitution to make it illegal to possess, procure, import or export child pornography. The proposal would take effect by amending the press and freedom of speech mandates to specifically exclude child pornography. The Special Rapporteur welcomes this step and calls upon the Government of Sweden to take all measures to ensure that the proposal is incorporated into Swedish constitutional law on the proposed date of 1 January 1999.

France

23. The Special Rapporteur notes the new approach being taken through the creation, by the International Bureau for Children's Rights, of the International Tribunal for Children's Rights. The Tribunal held its first public hearings in October 1997, on the effectiveness of extraterritorial legislation in response to the international dimension of child sexual exploitation. Several countries and non-governmental organizations made presentations in Paris before the Tribunal, the aims of which are to conduct inquiries and propose concrete solutions to violations of children's rights. The message conveyed by the first hearings was that the international community will no longer tolerate the situation whereby a national of one country will travel abroad to engage in sexual crimes against children, evade criminal prosecution in the country where the crimes were committed, and expect to return home with full impunity. The second hearings of the Tribunal were held in Fortaleza, Brazil, in May 1998, with the objective of examining a specific country experience in its efforts to curb child sexual exploitation.

Italy

24. The sexual abuse and murder of a small boy near the city of Naples in 1997 caused revulsion and outrage in Italy. In November 1998 police arrested three men in connection with the crime, and according to the confession made by one of them, they had dismembered the nine-year-old boy and burned his body parts. The murder of the boy highlighted the urgent need for action both nationally and on a international scale to combat highly organized child pornography rings and access to paedophile material on the Internet.[1]

Germany

25. In February 1998, German police raided apartments and refugee homes to break up a gang believed responsible for forcing young Eastern European women, mainly from Poland and Russia, into virtual slavery as prostitutes. Two of the 24 women freed had been kept locked up for seven months without ever seeing daylight.

IV. Sale and trafficking

A. International legal framework

26. Throughout the twentieth century, a succession of treaties have been adopted at the international level to combat trafficking and related offences, such as slavery, forced labour, and creation and dissemination of pornography. These statutes have concentrated most notably on trafficking of women and children for the purposes of prostitution.

27. The 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others consolidated four previous treaties: the 1904 International Agreement for the Suppression of White Slave Traffic; the 1910 International Convention for the Suppression of White Slave Traffic; the 1921 International Convention for the Suppression of the Traffic in Women and Children and the 1933 International Convention for the Suppression of the Traffic in Women of Full Age. The 1949 Convention obliges State parties to punish any person who "to gratify the passions of another, procures, entices or leads away another person for purposes of prostitution" or "exploits the prostitution of another person". Under the Convention such offences are to be regarded as extraditable or punishable by the courts of the home State of the offender, where he has returned after the commission of the offence. The Convention sets out procedures for combating international trafficking in persons (especially women and children) for the purposes of prostitution.

28. The Convention on the Rights of the Child (General Assembly resolution 44/25, annex) marked a significant evolution in international law. It contains important safeguards against illegal adoption and transfer of children from their parents. State parties to the Convention undertake to ensure that a child shall not be separated from his or her parents against their will, except where such a separation is necessary for the best interests of the child (articles 9 and 10). Articles 20 and 21 ensure that, in the case of a child who does not reside with his parents, it is the best interests of the child which remain paramount, with due regard paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background. Article 21 further provides that international adoption must not involve "improper financial gain".

29. Article 11 obliges States to take measures to combat the illicit transfer and non-return of children abroad, through the promotion of bilateral and multilateral agreements, and more explicitly, article 35 calls upon States to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

30. The Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoptions of 1993 was approved on 29 May 1993 by the Hague Conference on Private International Law, and entered into force on 1 May 1995. It is the most serious attempt to address issues of commercialism and malpractice attendant to intercountry adoptions as it prohibits improper financial gain from intercountry adoption, specifying that only costs and expenses, including reasonable professional fees, may be charged or paid.

B. Definitions

1. Sale of children

31. In order to gain a clearer perception of the meaning of "sale" in its commercial application, it may be useful to take a look at some definitions of "sale" in general. Black's Law Dictionary[2] defines it as "a contract between two parties, called, respectively, the 'seller' (or vendor) and the 'buyer' (or purchaser), by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and the possession of property".

32. The Oxford Dictionary defines "sale" as "the transfer by common consent of the ownership of a thing or an interest in land, or in incorporeal property, from one person to another in exchange for a price in money".

33. No consensus currently exists with respect to the sale of children. The traditional concept of sale as exemplified above is that it pertains only to property – real, personal or incorporeal – and that the consideration is always price in money. It is difficult to have a definition of "sale of children" since children are not, and should not be, legally and/or morally, the objects of trade or commerce. The reality of such sales, however, proves the need for a definition.

34. Mr. Vitit Muntarbhorn, the first Special Rapporteur on the mandate, defined "sale of children" as "the transfer of a child from one party (including biological parents, guardians and institutions) to another, for whatever purpose, in exchange for financial or other reward or compensation".

35. The incumbent Special Rapporteur, in her first report (A/50/456), defined "sale of children" as "the transfer of parental authority over and/or physical custody of a child to another on a more or less permanent basis in exchange for financial or other reward or consideration". This definition was adopted by her in order to exclude transactions that are strictly on a temporary basis, as when a child is "rented" out, in order to obviate confusion as to whether the transaction constitutes sale or pimping, for example.

36. The confusion created by the lack of a clear definition as to what constitutes the "sale" of a child has not helped the members of the Working Group on the Draft Optional Protocol to the Convention on the Rights of the Child in dealing with the sale of children, child prostitution and child pornography. One position taken by the negotiators is that a "sale" must be for the purpose of sexual exploitation; the opposing view is that it is dangerous to limit the definition of the term in that way.

2. Trafficking of persons

37. Black's Law Dictionary defines traffic in general as "commerce; trade; sale or exchange of merchandise, bills, money, and the like. The passing or exchange of goods or commodities from one person to another for an equivalent in goods or money. The subjects of transportation on a route, as persons or goods; the passing to and fro of persons, animals, vehicles, or vessels, along a route of transportation, as along a street, highways, etc." It also defines "trafficking" as "trading or dealing in certain goods and commonly used in connection with illegal narcotic sales".

38. There is as yet no internationally recognized definition of "trafficking in persons". The preamble of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), which provides: "Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community, ..."assimilates trafficking with prostitution. The Convention does not contain any real definition of trafficking. However, it defines the trafficker under Article 1, which provides:

> "Article 1. The Parties to the present Convention agree to punish any person who, to gratify the passions of another:
>
> (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
>
> (2) Exploits the prostitution of another person, even with the consent of that person."

39. Recently, however, "trafficking" has been expanded to refer not only to sexual exploitation but also to a wider range of offences.

40. Thus, the General Assembly, in resolution 49/166, defined "trafficking of persons" as the "illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment, and false adoption".

41. In the World Congress Against Commercial Sexual Exploitation of Children, "trafficking" was taken to refer to the illegal moving and selling of human beings across countries and continents in exchange for financial or other compensation.

42. The Global Alliance Against the Trafficking of Women (GAATW), on the other hand, defines "trafficking" as "the recruitment and transportation of (a) person(s) within and across national borders, by means of violence or threat of violence, abuse of actual or perceived authority arising from a relationship, or deception, in order to subject them to the actual and unlawful power of (an) other person(s)".

43. Another useful definition is that advanced by the Netherlands Advisory Committee on Human Rights and

Foreign Policy,[3] as follows: "The traffic in person could be defined as transporting a person from one place to another in order to subject him or her to the actual and unlawful power of other persons by means of using violence or the threat of violence or by using a position of authority arising from a relationship or by misleading the other person."

44. Most recently, the Transnational Training Seminar on Trafficking in Women, held in Budapest from 20 to 24 June 1998, promulgated the following definition: "Trafficking consists of all acts involved in the recruitment or transportation of persons within or across borders, involving deception, coercion or force, debt bondage or fraud, for the purpose of placing persons in situations of abuse or exploitation, such as forced prostitution, slavery-like practices, battering or extreme cruelty, sweatshop labour or exploitative domestic servitude."

45. The Special Rapporteur considers this last definition to be the most workable, although she expresses reservations as to whether trafficking always places the victim in a worse position than that held previously.

46. From the above summary of working definitions, there emerge some basic elements which seem to be widely agreed upon. They include some degree of involuntariness on the part of the person being trafficked, either through the employment of deceit, coercion or actual force, abuse of authority, confiscation of travel documents, or debt bondage. One question on which the above definitions are in dispute is whether trafficking for other than illicit reasons should give rise to criminal culpability.

47. The Special Rapporteur firmly believes that, as in the sale of a person, trafficking of a person reduces that person to the level of a commercial commodity and is therefore inherently condemnable, regardless of the ultimate purpose for which it is carried out. Thus, the argument that, in most cases of adoption, the children end up in much improved living conditions, would not in any way justify the trafficking of babies and children. Another issue that still remains unsettled is whether trafficking necessarily involves movement or transportation from one place to another, and if so, if it has to be across borders.

C. Discussion

48. As has been proposed, the sale and the trafficking of children are inextricably linked. The lack of concrete definitions, however, makes it very difficult in most instances to determine whether a particular transaction is a sale or trafficking. In most cases, elements of both are involved, but there is no line where one ends and the other begins. For this reason, and for the purposes of this report, the issues of sale and trafficking will not be treated as distinct and separate categories. A line must be drawn, however, between trafficking and illegal migration. Although there is some similarity between the processes of recruitment for both trafficking and migration, trafficking, as it is currently understood, involves some element of involuntariness, either through deception or by force or intimidation. With respect to children, this element of involuntariness would be for the most part assumed, regardless of any actual consent of the child to the transaction.

1. Identified aims of trafficking

Commercial sexual exploitation

49. The Special Rapporteur has dealt extensively with issues pertaining to the commercial sexual exploitation of children in her previous reports, including the causes and effects thereof.

Adoption

50. Another cause of trafficking, especially of babies and very young children, is intercountry adoption. The increase in such adoptions results from the shortage of children available for adoption in most developed countries. Rising infertility rates in some countries, the widespread use of contraceptives, legalization of abortion, and changing mores which now enable single mothers to keep their children are factors which have drastically reduced the number of children who would otherwise be available for adoption locally. UNICEF estimates suggest that the demand is about 50 applicants for every healthy infant. Hence, for a growing number of couples, intercountry adoption has become the only viable alternative. Furthermore, the growing will to keep children living in very difficult circumstances with their birth families and in their native environments also plays a part in increasing the demand.

51. The "need" for children has put pressure on sending countries to respond quickly to the growing demand often without having the necessary infrastructure and mechanisms to proceed properly. This situation has led to abuses and the creation of a veritable international market for adoptable children. Trafficking of children for the purpose of adoption is continuously increasing, and in some countries it is reported that the fees charged by intermediaries to handle adoptions range from $5,000 to $30,000 per child.

52. However, there is a distinction – although often blurred – between trafficking and illegal practices in intercountry

legitimate, the adoptive parents, in order to accelerate the process, often pay sums of money to intermediaries, people who are on the periphery of the arrangements of the adoption, such as doctors, lawyers or employees in orphanages. In such a case the adoption remains legal, despite the illegal practices involved.

53. However, "trafficking" in this context arises when the adoption can be compared to a sale – for example, when a child is kidnapped or given for adoption by a relative without the prior consent of the parents. Concerning the parents' authorization for adoption, special attention should be given to the situation of unmarried or especially poor women, who, because of their financial situation or the social unacceptability of their circumstances, may be forced or pressured into giving up their children for adoption.

54. The flow of intercountry adoption and of this type of trafficking is from South and Central America, Eastern Europe and South-east Asia to the western world. For example, in Australia in recent years more than 5,000 children have been adopted from countries as diverse as Bolivia, Chile, Colombia, Guatemala, Haiti, Hong Kong, India, Mauritius, the Philippines, Poland, the Republic of Korea, Sri Lanka, Thailand and Viet Nam.[4] Over 20,000 children from Asia, Central and Eastern Europe, and Latin America are adopted by foreigners from developed countries each year, and the demand for healthy babies is growing rapidly. Those who argue that intercountry adoption is exploitative complain that it encourages the purchase of children, which in turn thwarts the development of children's services in the developing world and is destructive of a child's heritage.

55. It should be noted that, even though intercountry adoptions are the primary source of profit for the criminal organizations involved, the clandestine selling of children for adoption also operates within countries.

56. It is noteworthy that the Convention on the Rights of the Child had marked a radical shift in terms of the aim of the adoption process. Whereas adoption used to be viewed primarily as a way of satisfying the needs of and providing happiness to the adoptive parents, under the Convention, the best interests of the child are now of primary consideration.

Labour

57. Although trafficking of children is most commonly associated with prostitution, many children are in fact recruited as a cheap source of labour. In many developing countries, labour "contractors" pay rural families in advance for their children whom they take away to work in cities. Even if such children are not literally enslaved, they are extremely vulnerable when they are away from their home environment. Many of them become domestic workers and are often victims of sexual abuse. Although child labour is most commonly thought to be a problem in developing countries, children are now being trafficked from countries such as Belarus, the Russian Federation and Ukraine into Hungary, Poland, the Baltic States and the capitals of Western Europe for such purposes.

58. Many children who are trafficked for the purposes of labour end up working in construction or in factories, exposed to a multitude of health risks, many of which prove fatal. The International Labour Organization (ILO) reports that in the construction industry, 26 per cent of working children suffer from job-related injuries or illnesses, including beatings from their employers. Children who work in agriculture often suffer the effects of poisoning from the pesticides used.

59. A new programme to curb trafficking of children for labour exploitation in Asian countries has been launched by the ILO. Targeting children under 18 who are at risk and are victims of trafficking in the Mekong basin and in South Asia, the new programme covers Bangladesh, Cambodia, China, Nepal, Pakistan, Sri Lanka, Thailand and Viet Nam. Priority target groups include girls, children from ethnic minorities and tribal populations, and children under 12 years of age.

60. In Africa, the ILO has warned that, if current trends continue, there will be 100 million African child labourers by the year 2015. Some live and work in slave-like conditions, are forced into prostitution, or end up on the streets of cities far away from their families.

Criminal activities

61. Of the many and varied categories of "labour" for which children are trafficked, some are illegal per se, regardless of the age of the actors. The Special Rapporteur has received reports of organized crime networks using children in various capacities. In Canada it was recently reported[5] that a large drug ring is luring children from Honduras to Vancouver, where they are being turned into street-corner crack dealers. According to the Vancouver police, as many as 100 Honduran children have been smuggled into Canada. The Honduran smugglers pay their transportation costs and help them across the Canadian border. Once in Vancouver, the ringleaders allegedly set the children up in apartments and help them file refugee claims and sign up for welfare. In return, the children, some as young as 11, are forced to deal drugs on the street to pay off their "debt" to the smugglers. The Special Rapporteur welcomes reports that British Columbia's Ministry of

Children and Families is working with the police and immigration officials to find ways to repatriate the children but expresses her concern that any decision regarding the children will reflect their best interests and in no way define them as criminals.

62. The International Organization for Migration (IOM) reports[6] that representatives of crime networks recruit street children in Cambodia by giving them glue to sniff, creating an addiction and, thereby, a dependency upon the recruiters. The children are then taken to Thailand, where the glue-sniffing serves the purpose of decreasing the child's inhibitions about committing criminal acts. The IOM report concedes that little information is available about the specific purposes and operation of these criminal groups.

Mendicancy

63. Children are not always deceived or abducted by the recruiters of beggars. They are often attracted by stories about the easy money that they can earn in big cities or tourist resorts. Even when most of their earnings are taken from them, the mere fact that they are able to eat every day may represent a significant improvement over their previous life. At the same time however, the recruiters and leaders of the begging rackets can earn a small fortune from their syndicate of beggars.

64. Handicapped children are particular targets for the recruiters of beggars who believe that the handicap will induce sympathy in the giver. That belief puts the child beggar at serious risk of being deliberately maimed in order to increase his or her earning potential. In 1997, a large number of Bengali children were deported to India from Saudi Arabia, where they had been taken on the pretence that they would visit Mecca. Instead they remained in the country, forced to beg every day from the many pilgrims there. On their return to India, it was discovered that several of them had broken limbs.

Armed conflict

65. The alarming trend of increased participation of children in armed conflicts has led to a situation whereby children are abducted and forcibly conscripted for that purpose. The development and proliferation of lightweight automatic weapons has made it possible for very young children to bear and use arms. Many more children abducted and trafficked into war zones are being used in indirect ways which are difficult to assess – for instance, as cooks, messengers and porters. Children have also been used for mine clearance, spying and suicide bombing.

66. The Special Rapporteur remains concerned about reports of continuing abductions of children in northern Uganda. In June 1998, members of the Lord Resistance Army allegedly abducted 40 school girls from a boarding school in Kalongo, 400 kilometres north-east of Kampala. Estimates suggest that the Resistance Army has abducted between 8,000 and 10,000 children from northern Uganda over the past 11 years, marching their child captives to rebel base camps in neighbouring southern Sudan. Many children die from exhaustion, starvation or disease during the march or are murdered because they try to escape or cannot keep up. On arrival at the base camps, both boys and girls are given military training and forced to take part in hostilities, carry heavy loads and act as personal servants to the rebels. Girls are often given as "wives" to the commanders.

Sports

67. The Special Rapporteur continues to express her concerns that in the Gulf States, mainly in the United Arab Emirates, the lives of young boys are being put at risk for the entertainment of spectators at camel races. For many years the boys, sometimes as young as four years of age, have been trafficked from countries in South Asia to supply the demand for camel jockeys. The children are attached to the camels' backs with cords, and the camels are made to run down a track. Children who fall risk being trampled to death by the other camels on the track, and if they refuse to ride the camels, they are beaten and forced to ride regardless.

68. In 1993, the Camel Jockey Association of the United Arab Emirates finally prohibited the use of children as jockeys. New evidence, however, clearly indicates that the rules are being blatantly ignored. In February 1998, 10 Bangladesh boys, aged between five and eight, were rescued in India while being smuggled to become camel jockeys. The boys had been lured away from their poor families on the promise of high-paying jobs.[7] Also in 1998, airport officials rescued two boys who were being taken to Dubai from Sri Lanka by two men who were later charged with their kidnapping.

69. Information from Anti-Slavery International suggests that new trafficking routes are opening up from north-east and west Africa. In October 1997, police intercepted traffickers in Mali taking young Mauritanian children to the Gulf, and there are reports of young Sudanese camel jockeys working in Qatar.

Marriage

70. Although more likely to involve women, the trafficking of "mail-order brides" may involve girls as young as 13.

Men who are looking for women as servants and sex partners are the catalyst for million-dollar businesses, many of which place advertisements quite openly in national and local newspapers in various countries. Mail-order bride agents have recently started using the Internet as their preferred marketing tool, since it reaches the target audience of wealthy men from western countries.

71. The agencies describe themselves as "introduction services", but their commercial interests in bride trafficking, sex tours and prostitution are thinly veiled by such descriptions. They offer women and girls from Asia and Eastern Europe, providing photographs accompanied by information such as the woman's height, weight, and measurements. Some pictures show women playing with children, which raises concerns that children are also being trafficked in this way. It is estimated that there are over 50,000 Filipino mail-order brides in the United States alone.

72. Sometimes these "marriages" are successful, but all too often the women are isolated and scared, becoming virtual slaves in their own homes. The incidence of violence against mail-order brides is extremely high. Some men use their wives as prostitutes or for pornography, and there are reports of such women having been tortured and killed.

Trafficking in organs

73. Rumours persist that there exists an illegal trade in human organs, and the Special Rapporteur has received allegations that street children in Argentina, Brazil, Colombia, Honduras, Mexico and in the Russian Federation are being killed so that their organs can be used in transplant operations. Such allegations have recurred repeatedly for over 20 years, but to the best of the Special Rapporteur's knowledge, nobody has been convicted of being connected with such an offence. While the Special Rapporteur does not discount the possibility that such an illegal trade might exist in some form, she considers that, at the present time, available information does not substantiate the claims that are made.

2. Causes of sale and trafficking

74. The root causes of trafficking in children are multiple and complex. However, some of the more frequently cited are poverty, lack of employment opportunities, low social status of the girl child, a general lack of education and awareness, inadequate legislation in the countries concerned, and weak law enforcement machinery. These factors, no doubt, contribute to the problem, but all ethical, moral, political, economic and health reasons need to be analysed in order to gain a better understanding of how they affect the increase of sale and/or trafficking activities, particularly with regard to children.

3. Methods of recruitment for sale and trafficking

75. In rural areas in south-east Asian countries, the first contact with family members or the children themselves is usually made by men who are native to the villages. They might be people working in factories or as casual labourers in a different country or region, who have returned with reports about the money which can be made there. Acting on behalf of their agents for a sum of money, locals befriend the children and lure them with false promises. Widespread corruption adds to the complexity of the problem; village headmen, police officers and governmental officials are often involved in recruitment and transportation and in supplying the necessary documents.

76. The 1,500-km border between Nepal and India is porous, with numerous routes that can be used by the traffickers and at least 20 formal entry points. The children are coached on how to answer questions that may be asked at the border. Often the border officials are aware that a crime is being committed but will turn a blind eye to it and later blackmail the agents and claim their share of the money. After crossing the border, the children are handed over to another person who poses as a brother, uncle, or friend. Thereafter, girls might be given to brothel owners, and both boys and girls are taken to work in factories.

77. Children working in Thai brothels come from tribes in the north of the country or from neighbouring Cambodia, China and Viet Nam. Some have been sold by their parents or lured by promises of jobs.

78. The study carried out by IOM in Cambodia[6] on the recruitment of women and girls for prostitution did not lead to the impression that there exists a highly organized (inter) national criminal network of recruiters and brothel owners, but rather that the networks are based more on a personal, sometimes familial, set of relationships.

4. Trafficking paths

79. Trafficking routes have been identified in virtually every part of the world, and they are constantly shifting. Changes in national legislations, political changes that result in a greater willingness of Governments to implement international obligations, the opening of new markets, conflict situations and relations between the countries in conflict can all affect the ease with which traffickers can operate.

80. Identified trafficking routes operate primarily from south to north, from east to west; from Latin America to North America, Europe and the Middle East; from countries of the former Soviet bloc to the Baltic States and Western Europe; from Romania to Italy, and through Turkey and Cyprus to Israel and the Middle East; from West Africa to the Middle East; from Thailand and the Philippines to Australia, New Zealand and Taiwan Province of China; from Cambodia and Viet Nam to Thailand; from Nepal and Bangladesh to India; and from India and Pakistan to the Middle East.

5. Effects on children

81. The effects of prostitution on children have been documented in previous reports of the Special Rapporteur. They include injury, disease and trauma associated with multiple sexual encounters. Those who have been trafficked for this purpose suffer the added trauma of often having been betrayed by those whom they trust, forcibly separated from their families by long distances and even across borders, isolated by a foreign language and culture. They may become dependent and dangerously attached to pimps and brothel operators. If trafficked across a border, their illegal status makes it very difficult for them to seek help, since they are at risk of arrest and prosecution for prostitution, for illegal immigration and for having false identity documents. They may be jailed or deported and, on their return home, are at risk of being rejected by families and communities, re-sold, or forced to return to prostitution.

V. Conclusions and recommendations

A. Conclusions

82. One basic problem faced in effectively addressing the issues of sale and trafficking is the lack of clear definitions, which results in confusion, difficulty in drafting legislation, and weak enforcement mechanisms. Even within the United Nations agencies, member Governments and non-governmental bodies, the problem has elicited varied responses.

83. Without a clear understanding of what precisely is meant by the term "trafficking", it is not possible to develop a strong legal basis for the prosecution of traffickers or to combat trafficking effectively. The lack of clarity persists partly because trafficking covers a wide variety of situations, not all of which involve illegal migration or exploitation.

84. Problems are further compounded by constantly changing and innovative forms of recruitment strategies and varying modes of deception, coercion and force employed in the process.

85. Most countries of destination do not have response mechanisms in place to extricate children from exploitative situations arising from sale or trafficking. This is particularly true in the case of adoption, where most law enforcement agents are reluctant to intervene in what are perceived to be purely domestic problems. Likewise, most national legislations do not make any distinction between trafficking and illegal migration. Thus, children who are victims of trafficking are also subject to the same policies of deportation.

86. There is no comprehensive gathering of data on the extent of sale and/or trafficking. Where they do exist, the statistics deal with women and children generally, and there are no indicators as to the percentage of children involved.

B. Recommendations

87. To combat trafficking in women and children, the United States and Italy recently established a Working Group on Trafficking in Women and Children. The Group, which held its first meeting in Rome on 14 April 1998, agreed to certain joint actions, for which the Special Rapporteur would like to express her support. Among them are the following:

(a) Protection of the rights of victims of trafficking must be promoted through the exchange of best practices with respect to assistance, protection and social integration of victims. Common initiatives, including joint programme strategies for victim outreach, should be implemented separately in Italy and the United States and should provide for the protection of victims' families in source countries;

(b) There is need for training for law enforcement, immigration and border officials in source countries, to help them to identify patterns and methods of trafficking and prevent trafficking through effective investigation and prosecution;

(c) Witness protection procedures and victim services should be developed in source countries for cases of repatriation, including training for law enforcement officials and assistance to non-governmental organizations that provide victim services.

88. The Special Rapporteur would like to make the following recommendations:

(a) The sale and trafficking of persons must be unequivocally condemned as being an affront to human dignity, since it reduces people to the level of objects of trade and commerce;

(b) International standards with regard to sale and trafficking should be set, together with international mechanisms to ensure reporting and monitoring of State activities;

(c) Hospitals, clinics, and care institutions should be strictly monitored, in order to reduce the risk of abduction, sale and trafficking of children from such places;

(d) The possibility of establishing international and regional registers for children adopted internationally should be considered;

(e) There must be international and regional registers for missing children, containing all the pertinent information for identification;

(f) Programmes and initiatives should be established to address the issue of stigmatization of single mothers and to empower them to keep their children, should they so desire;

(g) Bilateral and multilateral cooperation, especially between countries sharing borders and including institutionalized and systematic exchange of information, is imperative if the problem of trafficking of children is to be addressed;

(h) All law enforcement agents, border police, customs and immigration officials, relevant governmental ministers, and members of the judiciary in the countries affected should be trained on and sensitized to issues of trafficking and the rights and needs of the victims. Immigration and deportation policies of the receiving countries should be revised to prevent further marginalization and traumatization of trafficked children;

(i) Victims of trafficking must be guaranteed freedom from persecution or harassment by those in positions of authority and access to free legal assistance and qualified interpreters during all proceedings;

(j) The State in the territory under whose jurisdiction the trafficking took place or where the trafficked child is found must take all necessary steps to prosecute all the perpetrators;

(k) Humane policy guidelines can accomplish much to soften legal structures and help to attenuate the plight of victims;

(l) Priority must be given to the ratification and the effective and accelerated enforcement of existing conventions and instruments on human rights, on trafficking of persons and on slavery and slavery-like practices;

(m) National legislations must be reviewed, especially in sending and receiving countries, clarifying not only who are criminally culpable but also the elements of the offence and the corresponding penalties imposable therefor;

(n) Research must be systematically carried out in order to set up more effective response mechanisms, both nationally and internationally. Without statistics and knowledge of cases illustrating the extent of the problem, advocacy for positive action will be very difficult;

(o) Procedures must be elaborated to distinguish between victims of trafficking and illegal immigrants, to enable the victims to take action against the traffickers, and to enable them to return safely to their countries of origin with the assistance of reintegration programmes;

(p) Priority must be given to the ratification and the effective and accelerated enforcement of existing conventions and instruments on human rights, on trafficking of persons, and on slavery and slavery-like practices.

89. The Special Rapporteur would like to reiterate some pertinent previous recommendations:

(a) Regional and international conferences specifically addressing the issue of prosecution of child exploitation offences, with an international component, should be convened in order to determine the most expeditious legal alternatives for the prosecution of offenders – i.e., extradition, the prosecution *in situ*, or through the principle of extraterritoriality, as established in legislation or through bilateral or multilateral cooperation;

(b) Reviews of legislation, especially in sending and receiving countries, harmonizing the elements of the offence and identifying which actors are criminally culpable and the corresponding penalties imposable, must be initiated;

(c) Existing response mechanisms, organizations and agencies providing assistance to child victims or their parents or guardians, such as telephone hotlines and focal points in relevant governmental and educational institutions and local communities, should be widely publicized.

Notes

[1] Reported by Reuters, 20 November 1997.

[2] Santa Clara (California), West Publishing Co., 1990; sixth ed.

[3] Netherlands Advisory Committee on Human Rights and Foreign Policy (1992), p. 13.

[4] Vivien Altman, *Signposts to Asia and the Pacific*, 1996.

[5] See *The Ottawa Citizen*, 20 July 1998.

[6] Annuska Derks, *Trafficking of Cambodian Women and Children to Thailand* (Geneva, IOM, 1997).

[7] Reported in *Hindu Daily*, 20 February 1998.